



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0070; FRL-9945-24-Region 9]

**Approval of California Air Plan Revisions, Eastern Kern Air
Pollution Control District**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Eastern Kern Air Pollution Control District (EKAPCD) portion of the California State Implementation Plan (SIP). These revisions concern administrative changes of a previously approved regulation and emissions of volatile organic compounds (VOCs) in aerospace assembly and coating operations and in metal, plastic and pleasure craft parts and products coating operations. We are approving local rules that regulate these activities under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on **[Insert date 60 days after the date of publication in the Federal Register]** without further notice, unless the EPA receives adverse comments by **[Insert date 30 days after the date of publication in the Federal Register]**.

If we receive such comments, we will publish a timely withdrawal

in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0070 at <http://www.regulations.gov>, or via email to Steckel.Andrew@epa.gov. For comments submitted at [Regulations.gov](http://www.Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.Regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Vanessa Graham, EPA Region IX,
(415) 947-4120, graham.vanessa@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,”
and “our” refer to the EPA.

Table of Contents

I. The State’s Submittal

- A. What rules did the State submit?
- B. Are there other versions of these rules?
- C. What is the purpose of the submitted rules and rule revisions?

II. The EPA’s Evaluation and Action

- A. How is the EPA evaluating the rules?
- B. Do the rules meet the evaluation criteria?
- C. EPA recommendations to further improve the rules and rule revisions?
- D. Public comment and final action

III. Incorporation by Reference

IV. Statutory and Executive Order Reviews

I. The State’s Submittal

- A. *What rules did the State submit?*

Table 1 lists the rules addressed by this action with the

dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Adopted	Amended	Submitted
EKAPCD	103.1	Inspection of Public Records		05/02/96	07/23/96
EKAPCD	410.4	Metal, Plastic, and Pleasure Craft Parts and Products Coating Operations		03/13/14	07/25/14
EKAPCD	410.8	Aerospace Assembly and Coating Operations	03/13/14		07/25/14

On October 30, 1996, the EPA determined that the submittal for EKAPCD Rule 103.1 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On September 11, 2014, the EPA determined that the submittal for EKAPCD Rules 410.4 and 410.8 met the completeness criteria as well.

B. Are there other versions of these rules?

EKAPCD adopted an earlier version of Rule 103.1 on August 31, 1976, which CARB submitted to us on November 10, 1976. This rule was approved into the SIP on March 22, 1978 (43 FR 11816). EKAPCD adopted revisions to the SIP-approved version of Rule

103.1 on May 2, 1996, and CARB submitted the revised rule to us on July 23, 1996.

EKAPCD amended an earlier version of Rule 410.4 on March 7, 1996, and CARB submitted it to us on May 10, 1996. We approved the earlier version of 410.4 into the SIP on January 13, 2000 (65 FR 2046). EKAPCD adopted revisions to the SIP-approved version of Rule 410.4 on March 13, 2014, and CARB submitted it to us on July 25, 2014.

There are no previous versions of Rule 410.8 in the SIP. EKAPCD adopted Rule 410.8 on March 13, 2014, and submitted it to us on July 25, 2014.

While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rules and rule revisions?

VOCs help produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions.

Rule 103.1 supports some of the basic infrastructure SIP requirements described in section 110(a) of the CAA with respect

to public records access. The submitted version of Rule 103.1 contains only minor typographical changes from the version that we previously approved into the SIP in 1978, and is identical in substance to the SIP-approved version.

Rule 410.4 limits the VOC content and establishes related requirements for the coating of metal parts or products, large appliance parts or products, metal furniture, and plastic parts or products. EKAPCD revised the rule largely to be consistent with national guidance and with the rules of neighboring air districts.

Rule 410.8 limits VOC emissions from aerospace primers, coatings, adhesives, maskants and lubricants, as well as from cleaning, stripping, storing and disposal of organic solvents and waste materials associated with the use of the abovementioned aerospace products. This rule also provides for administrative requirements including those for recordkeeping and measurement of VOC emissions.

The EPA's technical support documents (TSDs) have more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)),

must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as moderate or above (see CAA sections 182(b)(2)). EKAPCD regulates an ozone nonattainment area classified as Marginal¹ for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). In addition, EKAPCD is classified as Moderate for the 1997 8-hour ozone NAAQS (40 CFR 81.305). Since Rules 410.4 and 410.8 regulate sources subject to a CTG in a nonattainment area, they must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

¹ See 80 FR 51992, August 27, 2015.

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (57 FR 13498, April 16, 1992, and 57 FR 18070, April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook," EPA Region 9, August 21, 2001).
4. "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations" (EPA 453/R-97-004, December 1997).
5. Guidance Memorandum for "Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coating" (EPA 453/R-08-003, June 2010).
6. "Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coating" (EPA 453/R-08-003, September 2008).
7. "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," USEPA Memorandum dated September 13, 2013.
8. "Review of State Regulation Recodifications," USEPA

Memorandum dated February 12, 1990.

B. *Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. The TSDs have more information on our evaluation.

C. *EPA recommendations to further improve the rules and rule revisions?*

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. *Public comment and final action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in

a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the EKAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on

tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a

petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: April 4, 2016.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220 is amended by adding paragraphs (c) (35) (xiii) (F), (c) (231) (i) (B) (8), (c) (239) (i) (C) (6), and (c) (447) (i) (D) (2) and (3) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(35) * * *

(xiii) * * *

(F) Previously approved on March 22, 1978, in paragraph (c) (35) (xiii) (A) of this section and now deleted with replacement in paragraph (c) (239) (i) (C) (6) of this section, Rule 103.1, "Inspection of Public Records," adopted on August 31, 1976.

* * * * *

(231) * * *

(i) * * *

(B) * * *

(8) Previously approved on January 13, 2000, in paragraph (c) (231) (i) (B) (6) of this section and now deleted with replacement in paragraph (c) (447) (i) (D) (2) of this section, Rule 410.4, "Surface Coating of Metal Parts and Products," amended on March 7, 1996.

* * * * *

(239) * * *

(i) * * *

(C) * * *

(6) Rule 103.1, Inspection of Public Records," amended on May 2, 1996.

* * * * *

(447) * * *

(i) * * *

(D) * * *

(2) Rule 410.4, "Metal, Plastic, and Pleasure Craft Parts and Products Coating Operations," amended on March 13, 2014.

(3) Rule 410.8, "Aerospace Assembly and Coating Operations,"
adopted on March 13, 2014.

* * * * *

[FR Doc. 2016-11516 Filed: 5/16/2016 8:45 am; Publication Date: 5/17/2016]